

HEARING PARTICIPANTS ARE NOTIFIED THAT ABSENT COMPELLING CIRCUMSTANCES, EVIDENCE PRESENTED AT PRELIMINARY HEARINGS IN THE DALLAS AND FORT WORTH DIVISIONS ON MOTIONS FOR RELIEF FROM THE AUTOMATIC STAY MAY BE BY AFFIDAVIT ONLY. THE PARTY REQUESTING THE HEARING MUST SERVE AFFIDAVITS AT LEAST 7 DAYS IN ADVANCE OF SUCH HEARING; THE RESPONDING PARTY MUST SERVE EVIDENTIARY AFFIDAVITS AT LEAST 48 HOURS IN ADVANCE OF SUCH HEARING.

TO THE HONORABLE JUDGE OF SAID BANKRUPTCY COURT:

NOW COMES CARVANA, LLC (hereinafter “Movant”), its successors and/or assigns, a secured creditor in the above-styled and numbered case, by and through its attorneys, and files this Motion for Relief from Stay against JASON ALLAN MAKOUTZ AND KARI MARJORIE MAKOUTZ (hereinafter “Debtors”) and in support of said Motion would show the court as follows:

1. This Court has jurisdiction over this proceeding pursuant to the provisions of 28 U.S.C. Sections 1471, 1334, 362 and 363.

2. On April 30, 2018 Debtor filed a Petition under Chapter 13 of the Bankruptcy Code, and pursuant thereto, an Order for Relief was granted.

3. Movant is the owner of a first lien claim against Debtor. Movant’s claim arose on or about 07/12/2017 when Movant loaned Debtor the purchase money for a 2015 NISSAN VERSA NOTE VIN: 3N1CE2CP6FL422601 (the “Vehicle”). To secure said loan Debtor gave movant a lien on the vehicle (collectively the “Loan Agreement”). True and correct copies of the Certificate of Title and Loan Agreement held by Movant are attached hereto and incorporated herein by reference.

4. The automatic stay which arose upon the filing of Debtor’s petition herein should be lifted to permit Movant to pursue its contractual and state law remedies regarding the Property for reason(s) that:

- i. For Cause, in that Debtor has failed to make payments when due, resulting in an arrearage amount of \$701.00 as of November 6, 2018. Next payment of \$227.00 will be due on December 11, 2018. A true and correct copy of the payment history is attached hereto and incorporated herein by reference.
- ii. For Cause, in that Movant does not have evidence that the vehicle described herein is insured.

5. The value of the collateral has declined since the petition filing. Additionally, the Debtor has no equity in the collateral.

6. For the above and foregoing reasons, Movant asserts cause exists sufficient to waive the requirement of Bankruptcy Rule 4001(a)(3), therefore allowing an Order to be effective upon this Honorable Court's signature.

WHEREFORE, PREMISES CONSIDERED, Movant prays that upon final hearing of this Motion, the Automatic Stay, pursuant to 11 U.S.C. Section 362, be modified to permit Movant to exercise its contractual and statutory rights to take possession of the vehicle described herein and thereafter dispose of the same as provided by law. In the event the Automatic Stay is not unconditionally lift, Movant prays that this Court enter such orders as will adequately protect Movant including therein an award of attorney's fees for the bringing of this motion. Movant prays that the provisions of Rule 4001(a)(3) not apply to any order issued pursuant to this Motion. Movant prays for such other and further relief, at law or in equity, to which it may show itself justly entitled.

Respectfully Submitted,

JACK O'BOYLE & ASSOCIATES

/s/ Travis H Gray
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ATTORNEYS FOR CARVANA, LLC

CERTIFICATE OF CONFERENCE

I, the undersigned, hereby certify that prior to the filing of this Motion, I did the following:

1. Conferred with Debtor's Counsel or Pro Se Debtor pursuant to the District Court Local Rule 7.1(a) and N.D.TX Local Bankruptcy Rule 9014.1(c)(1); and
2. Debtor's Counsel or Pro Se Debtor's response:

<input type="checkbox"/>	Debtor's Counsel or Pro Se Debtor does not oppose Movant's Motion;
<input type="checkbox"/>	My office made a good faith attempt to negotiate a settlement of the dispute with the Debtor's Counsel or Pro Se Debtor, but was unable to settle the same;
<input type="checkbox"/>	Although I left a message for Debtor's Counsel or Pro Se Debtor to call me regarding the Motion, Debtor's Counsel or Pro Se Debtor has not returned my call by the second business day after such contact.

Note(s):

/s/Travis H Gray
Travis H Gray

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing pleading has been sent to the persons listed below electronically or by first class mail on November 13, 2018.

JASON ALLAN MAKOUTZ
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Tim Truman
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CHAPTER 13 TRUSTEE

U.S. Trustee
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Daniel S Wright
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/s/ Travis H Gray
Travis H Gray